

WAYNE COUNTY FISCAL COURT
ORDINANCE NO. 1020.10
AN ORDINANCE RELATING TO A SOCIAL HOST ORDINANCE

SUMMARY: The Fiscal Court of Wayne County, recognizing that minors under the drinking age of 21 consume alcoholic beverages and marijuana and other controlled substances at private premises under the control of an adult who knows or should know of said consumption. Underage consumption of alcohol and illicit drugs causes a threat to the public health, safety and welfare of Wayne County. This Ordinance is adopted imposing criminal accountability and liability on social hosts who permit minors to obtain, possess or consume alcoholic beverages, marijuana and other controlled substances on premises under the control of said adults.

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF WAYNE, COMMONWEALTH OF KENTUCKY:

SECTION I: The Fiscal Court of the County of Wayne finds and determines that minors often obtain, possess and consume alcoholic beverages, marijuana and other controlled substances at parties held at private residences or private premises that are under the control of an adult who knows or should know of the illegal conduct but fails to stop the conduct. The Fiscal Court further finds that underage drinking and drug use result in an increase in alcohol and drug abuse by minors, physical altercations, violent crimes, including rape and other sexual offenses, accidental injury, neighborhood vandalism and excessive noise disturbance, all of which may require intervention by law enforcement. This Ordinance imposes civil and criminal liability on adults who own or control the private residences or private premises and fail to properly supervise or stop minors from obtaining, possessing or consuming alcoholic beverages, marijuana and/or other controlled substances. It further requires reimbursement for the costs associated with law enforcement, including reasonable attorney's fees in the event of litigation.

SOCIAL HOST ORDINANCE CONCERNING CONSUMPTION OF
ALCOHOLIC BEVERAGES BY MINORS

FINDINGS AND INTENT

The Fiscal Court of the County of Wayne find and declare that:

- (a) Minors often obtain, possess or consume alcoholic beverages, marijuana and/or other controlled substances at parties held at private residences or private premises that are under control of an adult who knows or should know of such conduct but fails to stop it.
- (b) Underage consumption of alcoholic beverages, marijuana and/or other controlled substances poses an immediate threat to the public health, safety and welfare in that it increases alcohol and drug abuse by minors, physical altercations, violent crimes including rape and other sexual offenses, accidental injury, neighborhood vandalism and excessive noise disturbances, all of which may require intervention by local law enforcement.
- (c) When law enforcement responds to a disturbance involving underage consumption of such substances and/or alcoholic beverages at private parties, extensive resources are often used to manage the incident. Further, a large social gathering that requires law enforcement attention takes away valuable resources from other service calls in the county, thereby placing the community at increased risk due to minimal level of police protection. Law enforcement is not currently reimbursed for their expenses when called to a private party.
- (d) The prohibitions found in this Ordinance are reasonable and expected to deter consumption of alcoholic beverages and drugs by minors by holding responsible adults who know of or should know of the illegal conduct yet fail to stop it.

DEFINITIONS:

The terms used in this Ordinance have the meaning provided by state law, except as expressly provided herein:

- (a) An "adult" is a person over the age of twenty-one (21) years.

(b) An alcoholic beverage includes any liquid or solid material intended to be ingested by a person which contains ethanol also known as ethyl alcohol, drinking alcohol or alcohol, including, but not limited to, alcoholic beverages, including intoxicating liquor, malt beverage, beer, wine, spirits, liqueur, whiskey, rum, vodka, cordials, gin and brandy, and any mixture containing one or more alcoholic beverages. Alcoholic beverages include a mixture of one or more alcoholic beverages found or ingested separately or as a mixture.

(c) "Controlled substance analogue", except as provided in subparagraph (b) of this subsection, means a substance:

1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and

2. Which has a stimulant, depressant or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or

3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

Such term does not include:

1. Any substance for which there is an approved new drug application;

2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or

- (d) "Enforcement services" represent the actual amount of time spent by law enforcement personnel in responding to or in remaining at a party, gathering or event at which a minor obtains, possesses or uses alcoholic beverages, including, but not limited to, the salaries, benefits of such personnel; the actual costs of medical treatment incurred by such personnel; administrative costs attributable to the costs related to the enforcement of this Ordinance.
- (e) A "family gathering" is a gathering where each minor present is supervised by his or her parent or legal guardian.
- (f) A "legal guardian" is a person who is lawfully vested with the power and charged with the duty of taking care of a minor.
- (g) A "minor" for purposes of enforcement of this Ordinance is any person under the age of twenty-one (21) years.
- (h) A "parent" includes any person who is a natural parent, an adoptive parent, a foster parent or a step-parent.
- (i) A "party" is a gathering or event at which a group assembles for a social occasion or activity at a private residence or private premises.
- (j) "Private residence" is a place where one actually lives or has his/her home.
- (k) "Private premises" is privately owned land, including appurtenances or structures on the land.
- (l) A "social host" is an adult who permits a party where one or more minors consume one or more alcoholic beverages on property owned or controlled by an adult.
- (m) "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin or any compound, mixture or preparation which

contains any quantity of these substances.

PROHIBITION:

No adult who owns or controls a private residence or private premises shall allow a party to take place or continue at said residence or premises if a minor at the party obtains, possesses or consumes any alcoholic beverages, marijuana and/or controlled substance and the adult knows or reasonably should know that the minor has obtained, possesses or is consuming alcoholic beverages or such substances at the party.

PRIMA FACIE EVIDENCE:

Whenever an adult having control of the residence or premises is present at that residence or premises at the time that the minor obtains, possesses or consumes any alcoholic beverages, marijuana and/or controlled substance, it shall be prima facie evidence that such adult had the knowledge or should have had the knowledge that the minor obtained, possessed or consumed an alcoholic beverage or controlled substance at the party.

PROTECTED ACTIVITIES:

This Ordinance does not apply to legally protected religious activities or gatherings of family members.

SEPARATE VIOLATIONS FOR EACH INCIDENT:

Each incident in violation of this Ordinance shall constitute a separate offense.

ENFORCEMENT AUTHORITY:

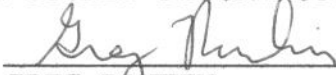
All local law enforcement officers are authorized to administer and enforce the provisions of this Ordinance. The County Attorney, the Sheriff, the City Police Chief and the Office of Alcoholic Beverage Control (ABC) may exercise any enforcement powers provided by law.

PENALTIES FOR VIOLATION:

- (a) As per KRS 530.070, any person who sells, furnishes, purchases or causes to be sold, furnished or given away any alcoholic beverages to a minor as defined herein is guilty of a Class A Misdemeanor.
- (b) A social host who permits alcoholic beverages, marijuana and/or controlled substances to be purchased, possessed or consumed by a minor guest is guilty of a Class A Misdemeanor and

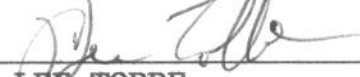
Given second reading and duly adopted by the Wayne County
Fiscal Court on the 8th day of January 2009.

WAYNE COUNTY FISCAL COURT

BY: 
GREG RANKIN
WAYNE COUNTY JUDGE-EXECUTIVE


MELISSA TURPIN
WAYNE COUNTY COURT CLERK

APPROVED AS TO FORM AND LEGALITY:


L. LEE TOBBE
WAYNE COUNTY ATTORNEY
15 HUFFAKER STREET
MONTICELLO, KENTUCKY 42633
(606) 348-9789